

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOY TECHNOLOGIES INC. and)	
JOY MM DELAWARE, INC.,)	
Plaintiffs,)	
)	
v.)	Civil Action No. 05-1066
)	
NORTH AMERICA REBUILD CO., INC.))	
Defendant.)	

MEMORANDUM AND ORDER

Gary L. Lancaster,
District Judge.

September 7, 2006

This is an action in trademark infringement and unfair competition. By order dated August 7, 2006, we denied defendant's motion to enforce a settlement agreement. Defendant has filed a motion for reconsideration and for a hearing on the motion to enforce a settlement agreement [doc. no. 20]. Defendant's motion will be denied.

Defendant claims that the court's order contains "an incorrect statement of the facts." In short, defendant contends, as it did in its original motion, that the May 18, 2006 offer letter set forth the terms for settlement of this case. Defendant contends that those terms were dismissal, with each side bearing its own costs, upon written terms similar to those used in a trademark infringement action against Phillips. In the August 7, 2006 order, the court ruled, among other things, that there were no such terms in the letter, or other sufficiently definite terms such that an enforceable settlement

agreement was created. Disagreement with a court's conclusions is not a ground for reconsideration. Evidence that the parties exchanged draft settlement agreements over the course of two months, with one of the most recent correspondence stating, without objection, that the draft "shall not be regarded as an offer of settlement" does not change our mind.

Nor do we find that a hearing on whether there was an enforceable settlement agreement is necessary. First, defendant failed to request such a hearing when it filed its motion to enforce a settlement agreement. It is appropriate to request a hearing when a motion is filed, not after the court has ruled on the papers and the party disagrees with the result. Second, to the extent that there is a requirement that a hearing be held on a motion to enforce a settlement agreement, that is a Pennsylvania procedural rule. State procedural rules do not control in federal court.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JOY TECHNOLOGIES INC. and)	
JOY MM DELAWARE, INC.,)	
Plaintiffs,)	
)	
v.)	Civil Action No. 05-1066
)	
NORTH AMERICA REBUILD CO., INC.))	
Defendant.)	

✱

ORDER

AND NOW, this 7 day of August, 2006, IT IS HEREBY
ORDERED that defendant's motion for reconsideration and for a
hearing [doc. no. 20] is DENIED.

BY THE COURT,

J. H. Luntz, Jr.

cc: All Counsel of Record